

REMARKS

In further response to the Restriction Requirement of September 8, 2008, and the Notice of Non-Responsive Amendment of January 26, 2009, Applicants submit herewith a substitute amendment in lieu of the amendment submitted to the Office on October 8, 2008.

Status of the Claims

Claims 1-8 and 14-21 are pending in the present application. Claims 9-13 are presently canceled. Claim 1 is amended. New claims 14-21 have been added. Support for amended claim 1 and new claims 14-21 is found throughout the specification as originally filed, including, *e.g.*, on page 8, line 23 – page 9, line 1. Reconsideration and entry of the amendment is respectfully requested.

Non-Responsive Amendment

The Examiner states that the response to the Restriction Requirement filed on October 8, 2008, is not fully responsive. Specifically, the Examiner states that haplotype 5, as described in Table 8 of the present application, which Applicants elected in response to the Species Election Requirement of September 8, 2008, is not encompassed by the instant claims. According to the Examiner, haplotype 5 comprises nucleotide bases, AGAC, at specified positions in the following loci, A118G, IVS2 + G691C, IVS3 + A6151G, and IVS3 + C8497T. The oligonucleotides containing these polymorphisms are described in Table 4 of the present application as SEQ ID NO. 15 (A118G), SEQ ID NO: 24 (IVS2+G691C), SEQ ID NO. 28 (IVS3 + A6151G), and SEQ ID NO. 30 (IVS3 + C8497T). However, the Examiner states that independent claims 1 and 14 specify only four groups of nucleotide sequences, which do not encompass SEQ ID NO. 24, *i.e.*, SEQ ID NOS. 1-15, SEQ ID NOS. 16 and 25, SEQ ID NOS. 26 and 27, and SEQ ID NOS. 28-98.

Independent claims 1 and 14 are amended to specify “SEQ ID NOS. 16 to 25.” Accordingly, the claims encompass SEQ ID NO. 24 and Applicants submit that the present amendment is fully consonant with the election, as reiterated herein below.

Restriction/Election

In further response to the Restriction/Election Requirement of September 8, 2008, Applicants elect, for the purposes of examination, Group I, Claims 1-8 without traverse. Applicants respectfully submit that newly added claims 14-21 should also be included in Group I.

With regard to the further lack of unity restriction requirement, Applicants elect the haplotype No. 5 (AGAC) found in Table 8 of the specification (page 55).

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Marc S. Weiner, Registration No 32,181 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: **FEB 26 2009**

Respectfully submitted,

By 

Marc S. Weiner
Registration No.: 32,181
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant